

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

APPEAL FROM ORDER No 383 of 1994

For Approval and Signature:

Hon'ble MR.JUSTICE H.H.MEHTA

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : YES
 2. To be referred to the Reporter or not? : NO
 3. Whether Their Lordships wish to see the fair copy of the judgement? : NO
 4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO
 5. Whether it is to be circulated to the Civil Judge? : NO

SAIYED MOHAMMAD HANIF SAIYED HASAN & 1

Versus

MUBINABEGUM D/O SAIYED HASAN AND W/O JAMALUDDIN

Appearance:

MR PV NANAVATI for Appellants

MR NM KAPADIA for Respondent

CORAM : MR.JUSTICE H.H.MEHTA

Date of decision: 19/09/2000

ORAL JUDGEMENT

1. The original plaintiffs of Special Civil Suit No.352 of 1994 pending on the file of the learned Civil Judge(S.D.), Surat (who will be referred to hereinafter as the learned Judge of the trial Court) have by filing this appeal under Section 104(1) of CPC read with Order

43 Rule 1(r) of the CPC, challenged the legality and propriety of the order dated 29th October, 1994, passed below application Ex.5 in Special Civil Suit No.352 of 1994.

2. Here in this appeal, the appellants are the original plaintiffs whereas the respondent is the original defendant in the aforesaid suit and, therefore, parties will be referred to hereinafter as plaintiffs and defendant respectively at appropriate places. Parties are related to each other. Plaintiffs are the brothers of defendant.

3. When this appeal came up for hearing before the Court, the learned advocates for both the parties jointly submitted that, without observing anything about the order challenged in this appeal and without assigning any reasons in the judgment, this appeal may be disposed of by giving suitable directions to the learned Judge of the trial Court.

4. Having heard the learned advocates for both the parties and on going through the grounds of appeal, this Court is of the view that this appeal is required to be disposed of by giving suitable directions to the learned Judge of the trial Court as submitted by both the parties.

5. Accordingly the learned Judge of the trial Court is directed to dispose of the Special Civil Suit No.352 of 1994, in accordance with law, within six months from the date of receipt of writ of this Court, as this suit is with regard to family dispute, by affording full opportunity of being heard to both the parties, without being influenced in any manner by the order of this Court.

6. Both the parties are directed to extend full co-operation to the learned Judge of the trial Court so as to enable him to dispose of the suit within a given time.

7. Meanwhile, order of this Court (Coram: S.M.Soni, J.) dated 14.12.1994 passed in Civil Application No.4495 of 1994 shall continue to remain effective and operative till final disposal of the suit.

With the aforesaid directions, this appeal stands disposed of accordingly with no order as to costs. Office is directed to send the writ of this Court to trial Court forthwith.

(H.H. Mehta, J.)

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